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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,618	12/24/2003	Aaron Golle	1748005US1	1477
21186	7590	02/28/2007	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/707,618	GOLLE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason M. Han	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 March 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,4,10-12,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,4,10-12,15 and 16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20060217</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed March 20, 2006 have been fully considered but they are not persuasive.
2. In response to Applicant's argument, "Hoffman itself makes no mention of using a yellow layer, or providing a green color for night time viewing. Further, it does not discuss how to obtain a yellow color in the day with a white EL color in non-illuminated condition with a yellow layer, and to obtain a green illuminated color at night by using a white EL color that illuminates as a blue-green color to provide the green color at night" [Page 10], Hoffman (U.S. Patent 5,522,289 A) remains commensurate to the scope of the claim. Though Hoffman does not specifically teach a yellow color in the day with a white EL color in non-illuminated condition with a yellow layer and obtaining a green illuminated color at night by using a white EL color that illuminates as a blue-green color to provide the green color at night, it remains obvious to one ordinarily skilled in the art that the Applicant is merely using various layers of different colors in producing different colored illumination. Such a configuration is considered an obvious design preference, whereby Hoffman teaches contrasting color schemes, "One or more contrast layers or sheets of translucent colored or contrast material can be disposed over at least part of the visible portion of the lamp for enhanced visual effect" [Column 2, Lines 30-33].

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The following claims have been rejected in light of the specification, but rendered the broadest interpretation as construed by the Examiner within the context of the claim language as stated by the Applicant [MPEP 2111].

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-4, 10-12, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (U.S. Patent 5,553,289 A).
4. With regards to Claim 1, Hoffman discloses an EL sign [Figures 1, 4, and 6-7] comprising an EL illuminated color and a non-illuminated color [Column 3, Line 62 – Column 4, Line 31].

Though Hoffman does not specifically teach the particulars of the EL lighting element being white in a non-illuminated condition and blue-green in an illuminated condition, whereby a yellow layer imparts a yellow tint to the sign in daylight when the EL lighting element is non-illuminated and a light green appearance at night when the EL lighting element is illuminated, it is considered an obvious matter of design preference with respect to the contrasting colors of the device, whereby signs are commonly known in the art to have two or more colors (e.g., yellow, white, and blue-

green). Hoffman corroborates, "The indicia defining member 18 can have portions thereof of different and/or contrast layers of translucent colored or contrast material" [Column 4, Lines 26-30]. In this case, it is obvious to one of ordinary skill at the time of invention that the Applicant is claiming an EL device that is white during non-illumination, such that the yellow tint layer is portrayed, while when the EL device is blue-green during illumination, the yellow tint would mix with the blue-green in providing a green illumination. Such a configuration is merely a combination of various and different contrast layers of translucent colored materials, which is suggested by Hoffman above.

5. With regards to Claim 3, Hoffman discloses the non-illuminated color being effective for signaling a safety message in daylight [Column 2, Line 14; Column 4, Lines 7-10].

6. With regards to Claim 4, Hoffman discloses the illuminated color begin effective for signaling a safety message in the dark or other conditions of poor visibility [Column 2, Line 14; Column 6, Lines 5-11].

7. With regards to Claim 10, Hoffman discloses safety indicia defined by the illuminated color [Column 3, Line 62 – Column 4, Line 6; Column 4, Lines 10-15].

8. With regards to Claim 11, Hoffman discloses safety indicia defined by the non-illuminated color [Column 4, Lines 7-10, 15-20].

9. With regards to Claim 12, Hoffman discloses safety indicia defined by the illuminated color and the non-illuminated color [Column 3, Line 62 – Column 4, Line 31].

10. With regard to Claim 15-16, Hoffman discloses that a flasher/blinking mechanism "can be" incorporated into the system [Column 5, Lines 40-42], and thus, said EL lighting would be inherently static.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason M Han  
Examiner  
Art Unit 2875

JMH (2/20/2007)



Sandra O'Shea  
Supervisory Patent Examiner  
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